

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF TAX APPEALS
FILE NO. K04-S-01**

DANNY R. SCROGGINS

APPELLANT

V.

ORDER NO. K-19327

**GRANT COUNTY PROPERTY
VALUATION ADMINISTRATOR**

APPELLEE

The Kentucky Board of Tax Appeals has delegated authority to the hearing officer pursuant to KRS 13B.030. The hearing officer entered a recommended order in compliance with the provisions of KRS 13B.110. No exceptions or objections to the recommended order were filed. The Board has reviewed the record and the recommended order.

The Kentucky Board of Tax Appeals conducted a hearing in this matter on February 11, 2005 and made the following findings of fact, conclusions of law and recommended disposition.

FINDINGS OF FACT

This assessment appeal is for real property located at 117 Austin Drive, Crittenden, Kentucky. The Property Valuation Administrator assessed the property at \$98,000.00. The taxpayer or Appellant values the property at \$85,500.00. The Grant County Board of Assessment Appeals valued the property at \$98,000.00. The Appellants filed a timely appeal from the local board with the Kentucky Board of Tax Appeals.

The Appellant offered the following evidence in support of his appeal:

Mr. Danny Scroggins (Appellant) testified his personal residence of 117 Austin Drive, Crittenden, Kentucky is “1500 square foot living space”, on a slab, with a single-car garage, and a lot size of an acre. He paid \$16,000.00 for the lot in 1993. Its exterior is vinyl siding and has six interior rooms. Mr. Scroggins states the property has received no improvements since its initial construction. Therefore, the property has some deterioration according to Mr. Scroggins. Mr. Scroggins notes the property is in need of several thousand dollars worth of repair, but is unable to make repairs because of personal financial considerations.

During cross-examination from the Grant County PVA, Mr. Scroggins stated his monthly payment is \$400 with a mortgage of \$67,000.00. Additionally, Mr. Scroggins agreed a \$400.00 storage shed has been added to the property since 1993. He confirmed his home currently leaks from poor shingles on his home and a truss bulging on the exterior of the house. Mr. Scroggins has refinanced the property at least three times and did not provide any information regarding the appraisals. Mr. Scroggins did not offer any comparable valuations to his property.

The Appellants bought the lot and constructed the property in 1993 for a total of \$73,000.00 with city sewer and water.

The PVA argues with an exhibit as an insurance declaration page stating the property has an insured value of \$85,000.00 not including the value of the lot. Ms. Angie McLafferty with the Grant County Property Valuation Administrator’s Office was asked to testify. Her testimony stated the county is experiencing “rapid appreciation” as a growing county. Her evaluation of the noted property is \$25,000.00 for the land and \$73,000.00 for the house.

Ms. McLafferty found the land value based on the value of one-acre lots selling “right across Alexander Lane” (\$26,000.00, \$27,000.00, and \$40,000.00). These lots are located across the road on 491. Some specific lot comparables are 375 Alexander Lane (\$41,340.00 for 1.33

acres), 101 Langsdale Point (\$26,000.00 for 1 acre in 2000), 103 Austin Drive (\$22,000.00 for 1 acre), and 105 Austin Drive (\$25,000.00 for 1 acre).

Ms. McLafferty used ten comparables as evidence factoring out homes with or without basements. Some examples include 3960 Dixie Highway (\$89,000.00 for one acre sold in 2004), 180 Eagle Ridge Road (\$110,000.00 for a “double-wide” on one acre), 8 Martin Court (\$109,000.00 for 1,065 square feet on .17 acres), 116 Austin Drive (located in the same subdivision as Mr. Scroggins (\$151,000.00 for 2,010 square feet with a basement sold in July 2004 on 1.4 acres), 136 Austin Drive (\$156,000.00 for 1,408 square feet and built in 1995 with a basement with a lot size of 1.3 acres), 235 Shawnee Run Road (\$120,000.00 for 1,056 square feet on less than an acre), 200 Autumn Way (\$124,000.00 for 1,073 square feet on .21 acres sold in June 2004), 260 Cherokee Trail (\$120,000.00 with a basement for 1,120 square feet sold in March 2003), and 2865 Gardnersville Road (not located in the subject quad).

Ms. McLafferty states her value of \$98,000.00 is “even underassessed”.

It is the finding of this hearing that the Appellant did not sustain his burden of proof regarding his challenge to the final order of the Grant County Board of Assessment Appeals.

Based upon the evidence in the record, it is the finding of this board, acting through its hearing officer, Bill Beam, Jr., the fair cash value of the property in question as of January 1, 2004 is \$98,000.00.

CONCLUSIONS OF LAW

The Kentucky Board of Tax Appeals is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of the Grant County Board of Assessment Appeals pursuant to KRS 131.340(1).

The function of the Board is not simply to review the action of the Grant County

Board of Assessment Appeals, but to try anew the issues as presented. *Jefferson County Property Valuation Administrator v. Oxford Properties, Inc.*, Ky.App., 726 S.W.2d 317, 319 (1987). See KRS 131.340(1).

Section 172 of the Kentucky Constitution mandates that “all property shall be assessed for taxation at its fair cash value, estimated at the price it would bring a fair voluntary sale.”

The choice of the most appropriate and reliable approach to valuation is within the prerogative of the Board. *Jefferson County Property Valuation Administrator*, 726 S.W.2d at 319.

Regardless of the manner or method used by the Property Valuation Administrator or the decision of the Kentucky Tax Board of Appeals, the finding of valuation must be at its fair cash value, estimated at the price it would bring at a fair voluntary sale. *Helman v. Kentucky Board of Tax Appeals*, Ky.App., 554 S.W.2d 889 (1977).

As the party proposing that the Kentucky Board of Tax Appeals set aside the decision of the Grant County Board of Assessment Appeals, the Appellants have the burden of proving a lower value. KRS 13B.090(7).

If the property is sold at or near the assessment date in a fair and voluntary sale, the sale price is usually the best evidence of the property’s fair cash value. *Sears, Roebuck & Company v. Boone County Board of Assessment Appeals*, Ky.App., 715 S.W.2d 888, 889 (1986).

Based upon the facts as established in this hearing, the hearing officer concludes that the fair cash value of the subject property as of January 1, 2004 is \$98,000.00.

RECOMMENDED ORDER

It is recommended that the June 14, 2004 final ruling of the Grant County Board of

Assessment Appeals be upheld and the real property be assessed at a fair cash value of \$98,000.00 as of January 1, 2004.

Each party shall have fifteen (15) days from the date any recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party.

FINAL ORDER

The Kentucky Board of Tax Appeals has considered the record and accepts the recommended order of the hearing officer, and adopts it as the Board's final order. Failure to file exceptions to an administrative hearing officer's recommendations after a hearing constitutes a failure to exhaust administrative remedies and precludes appellate review. *Swatzell v. Natural Resources and Environmental Protection Cabinet*, Ky App 962 SW 2d 866 (1998).

The June 14, 2004 final ruling of the Grant County Board of Assessment Appeals is sustained and the real property is to be assessed at a fair cash value of \$98,000.00 as of January 1, 2004.

The following information is provided pursuant to the final order requirements of KRS Chapter 13B:

This is a final and appealable order. All final orders of this agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or

operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

**DATE OF ORDER
AND MAILING: MAY 23, 2005**

FULL BOARD CONCURRING

**NANCY MITCHELL
CHAIR**

Order No. K-19327